

**ORIGINAL**

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FILED IN THE  
UNITED STATES DISTRICT COURT  
DISTRICT OF HAWAII

MAY 22 2007

at 4 o'clock and 10 min. P.M.  
SUE BEITIA, CLERK

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAII

UNITED STATES OF AMERICA,

Plaintiff,

vs.

SILVER JOSE GALINDO,

) CR. NO. 04-00053 DAE

)

) NOTICE OF HEARING;

) DEFENDANT'S MOTION TO

) DISMISS COUNTS 1, 4, 5, 8 & 9;

) MEMORANDUM IN SUPPORT

) OF MOTION; DECLARATION OF

) JACK SCHWEIGERT, ESQ;

) EXHIBIT 1; CERTIFICATE OF

) SERVICE

)

) TRIAL: July 10, 2007

)

) HEARING:

) Date: \_\_\_\_\_

) Time: \_\_\_\_\_

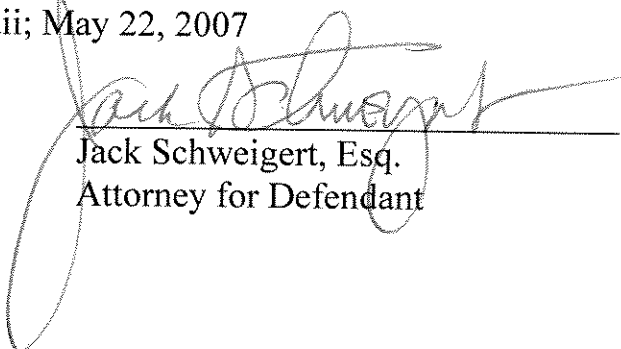
) Judge: \_\_\_\_\_

NOTICE OF HEARING

TO: Darren W.K. Ching, Esq.  
Assistant U.S. Attorney  
Room 6100, PJKK Federal Building  
300 Ala Moana Blvd., Box 50183  
Honolulu, HI 96850  
Attorney for U.S.A.

Notice is hereby given that the attached motion shall come on for hearing before the Honorable \_\_\_\_\_, Judge of the above-entitled Court, in his or her courtroom at 300 Ala Moana Blvd., Honolulu, Hawaii, on \_\_\_\_\_, 2007, at \_\_\_\_\_ .m., or as soon thereafter as counsel and all parties may be heard.

DATED: Honolulu, Hawaii; May 22, 2007



\_\_\_\_\_  
Jack Schweigert, Esq.  
Attorney for Defendant

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAII

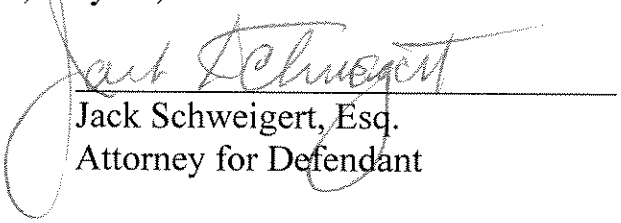
UNITED STATES OF AMERICA,	) CR. NO. 04-00053 DAE
	)
Plaintiff,	)
	) DEFENDANT'S MOTION
vs.	) TO DISMISS COUNTS
	) 1, 4, 5, 8 & 9 OF THE THIRD
SILVER JOSE GALINDO,	) SUPERSEDING INDICTMENT
	)
Defendant.	)

DEFENDANT'S MOTION TO DISMISS COUNTS 1, 4, 5, 8 & 9  
OF THE THIRD SUPERSEDING INDICTMENT

COMES NOW DEFENDANT SILVER JOSE GALINDO, by and through counsel, and moves this Honorable Court for an Order dismissing counts 1, 4, 5, 8 & 9 of the Third Superseding Indictment because they are an impermissible extension of the Commerce Clause for wholly intra-state possession of a firearm which is not a constitutional exertion of Congress's Commerce Clause power.

This motion is made pursuant to Rules 12 & 47, Federal Rules of Criminal Procedure and is based on Article 1, section 8, clause 3, U.S. Constitution, the 5th and 6th Amendments to the U.S. Constitution, and the corollary State constitutional provisions as well. This motion is further supported by the attached memorandum of law, arguments made at the hearing of this matter, and the record and file.

DATED: Honolulu, Hawaii; May 22, 2007.

  
\_\_\_\_\_  
Jack Schweigert, Esq.  
Attorney for Defendant